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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,604	10/24/2003	Changyong Lee	25772	7311

7590 12/01/2006

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EXAMINER

MAHAFKEY, KELLY J

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,604

Applicant(s)

LEE ET AL.

Examiner

Kelly Mahafkey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendments made 9/15/06 have been entered.

Claims 6-8 are pending.

Claim Rejections - 35 USC § 112

The previous rejections 112 rejections have been withdrawn in light of applicant's amendments.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Try (Try Korean Dishes: Kalbit'ang-Rib Soup 9/17/2000) in view of George et al. (US 6042863) and of Katsuragi et al. (US 5756543) and Komatsu et al. (US 3892058) and McIntyre et al. (US 4741911).

Claims 6-8 recite the same limitations of claims 1-5 and thus are rejected for the same reasons of record as previously presented claims 1-5.

Response to Arguments

Applicant's arguments filed September 15, 2006 have been fully considered but they are not persuasive.

Applicant argues that the references do not teach the entire claimed temperature and time range for blanching, however, it is noted that George does teach the lower end of the claimed ranges. George teaches of blanching for 20 minutes at "approximately 49C". Applicant claims blanching for 20-30 minutes at 50-70C. Since, one of ordinary skill in the art would expect "approximately 49C" to include 50C, and since the reference teaches of blanching for 20 minutes, the reference reads upon the claimed invention.

Applicant argues that the George reference teaches away from the claimed invention by teaching acid soaking as negative, however, George, Column 2 lines 23-25, teaches away from acid soaking only in regards to large scale operations, which are

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neither claimed nor taught by the other references. Thus, George does not teach away from the claimed invention.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, George teaches of a blanching process, including skin removal, which removes bitter taste and prevents the discoloration of the final product. Thus, one would have been motivated to use the process as taught by George in order to have a less bitter product without discoloration.

Applicant argues that Katsuragi does not teach of an organic acid and calcium solution because Katsuragi teaches of an ester formed from the reaction of a monoglyceride or diglyceride and a polycarboxylic acid. Applicant is referred to Katsuragi, which teaches, (Column 3 lines 43-65) that the solution that is applied to the jujubes may also contain (i.e. in addition to the ester), "*unreacted polycarboxylic acid* and mono- or diglyceride and polymerization products thereof..." and "examples of the counter ions for the formation of the salt include alkali metals and alkaline earth metals such as sodium, potassium, *calcium*, magnesium...". Furthermore, it is noted that since the process is the same, the process as taught by Katsuragi would be expected to produce the same results as those claimed by applicant (i.e. reduced microorganisms and improved texture).

Applicant argues non-obviousness with experimental data, however, the evidence cannot be considered credible as it is unclear by whom it was produced and reported by. Furthermore, it is noted that the experimental data compares the applicant's invention with untreated materials and not the closest prior art of record. Thus, this is not convincing.

Conclusion

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

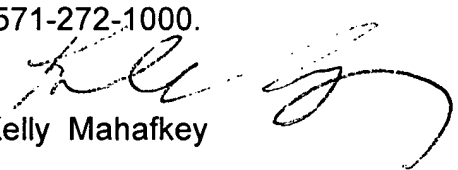
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Mahafkey whose telephone number is (571) 272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


KEITH HENDRICKS
PRIMARY EXAMINER


Kelly Mahafkey
Examiner
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